

# **JOURNAL OF THE SENATE**

## **EIGHTY-EIGHTH SESSION**

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NINTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, January 22, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Fr. Mark McCormick, followed by the Pledge of Allegiance led by Senate page Kay Marrs.

Roll Call: All members present.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the eighth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Corey Brown, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named persons:

2 Pages -- Miranda Cain, Corwin Coldman, Robert Foiles, Fabio Galletta, Katie Haines,  
3 Calisandra Larson, Kay Marrs, Natasha Sund

4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **REPORTS OF STANDING COMMITTEES**

6 MR. PRESIDENT:

7 The Committee on State Affairs respectfully reports that it has had under consideration  
8 SB 70 and returns the same with the recommendation that said bill be amended as follows:

9 26oa

10 On page 26, line 24, of the printed bill, delete "fourteen" and insert "thirteen".

11 On page 27, line 1, delete "five" and insert "four".

12 On page 27, line 3, delete "two additional members, one of whom" and insert "one  
13 additional member".

14 On page 27, line 4, delete "five" and insert "four".

15 And that as so amended said bill do pass.

16 Respectfully submitted,  
17 Larry Rhoden, Chair

18 Also MR. PRESIDENT:

19 The Committee on Education respectfully reports that it has had under consideration SB 71  
20 and returns the same with the recommendation that said bill do pass and be placed on the  
21 consent calendar.

22 Respectfully submitted,  
23 J. Mark Johnston, Chair

1 Also MR. PRESIDENT:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
3 under consideration SB 20 which was deferred to the 41<sup>st</sup> Legislative Day.

4 Respectfully submitted,  
5 Shantel Krebs, Chair

6 Also MR. PRESIDENT:

7 The Committee on Commerce and Energy respectfully reports that it has had under  
8 consideration HB 1036 and returns the same with the recommendation that said bill do pass.

9 Also MR. PRESIDENT:

10 The Committee on Commerce and Energy respectfully reports that it has had under  
11 consideration SB 61 and returns the same with the recommendation that said bill be amended  
12 as follows:

13 61ja

14 On page 4, after line 1 of the printed bill, insert:

15 "Section 3. An insurer may by contract prohibit an insurance producer from collecting a  
16 fee from an insurance customer for services provided as a consultant."

17 And that as so amended said bill do pass and be placed on the consent calendar.

18 Also MR. PRESIDENT:

19 The Committee on Commerce and Energy respectfully reports that it has had under  
20 consideration SB 67 and returns the same with the recommendation that said bill be amended  
21 as follows:

22 67ja

23 On page 10, line 23, of the printed bill, after "." insert "Nothing in chapters 58-5 or 58-6  
24 shall be construed to prohibit a nonprofit health maintenance organization from transacting  
25 business under this title based upon its nonprofit status."

26 67jb

27 On page 3, line 5, of the printed bill, after "." Insert "Nothing in this chapter requires a  
28 licensed pharmacy benefit manager to obtain a certificate of authority as a health maintenance

1 organization provided that the pharmacy benefit manager does not assume insurance risk  
2 directly from an insured."

3 67jc

4 On page 8, line 8, of the printed bill, after "36-27A" insert ", dentist licensed pursuant to  
5 chapter 36-6A".

6 67jd

7 On page 13, line 3 of the printed bill, after "accountant" insert "licensed by an appropriate  
8 jurisdiction".

9 On page 20, line 8, after "report" insert "in accordance with generally accepted accounting  
10 principles in the United States (U.S. GAAP)".

11 On page 20, line 15, delete "GAAP financial statements" and insert "Financial statements  
12 prepared in accordance with U.S. GAAP".

13 And that as so amended said bill do pass and be placed on the consent calendar.

14 Also MR. PRESIDENT:

15 The Committee on Commerce and Energy respectfully reports that it has had under  
16 consideration SB 77 which was deferred to the 41<sup>st</sup> Legislative Day.

17 Respectfully submitted,  
18 Ried S. Holien, Chair

19 Also MR. PRESIDENT:

20 The Committee on Judiciary respectfully reports that it has had under consideration  
21 HB 1008 and 1009 and returns the same with the recommendation that said bills do pass and  
22 be placed on the consent calendar.

23 Also MR. PRESIDENT:

24 The Committee on Judiciary respectfully reports that it has had under consideration the  
25 nomination of Thomas E. Simmons of Pennington County, Rapid City, South Dakota, to the  
26 Board of Pardons and Paroles and returns the same with the recommendation that the Senate  
27 advise and consent to the confirmation of said appointment and said appointment be placed on  
28 the consent calendar.

1 Also MR. PRESIDENT:

2 The Committee on Judiciary respectfully reports that it has had under consideration the  
3 nomination of Keith Bonenberger of Jackson County, Kadoka, South Dakota, to the Board of  
4 Pardons and Paroles and returns the same with the recommendation that the Senate advise and  
5 consent to the confirmation of said reappointment.

6 Also MR. PRESIDENT:

7 The Committee on Judiciary respectfully reports that it has had under consideration the  
8 nomination of Sharon Kallemeyn of Pennington County, Rapid City, South Dakota, to the  
9 Crime Victims' Compensation Commission and returns the same with the recommendation that  
10 the Senate advise and consent to the confirmation of said reappointment and said reappointment  
11 be placed on the consent calendar.

12 Respectfully submitted,  
13 Craig Tieszen, Chair

14 **MESSAGE FROM THE HOUSE**

15 MR. PRESIDENT:

16 I have the honor to transmit herewith HB 1011, 1012, 1018, 1019, 1024, 1025, 1032, 1039,  
17 1047, and 1066 which have passed the House and your favorable consideration is respectfully  
18 requested.

19 Respectfully,  
20 Arlene Kvislen, Chief Clerk

21 **MOTIONS AND RESOLUTIONS**

22 Sen. Olson moved that SB 56, 4, 3, and 5 be deferred to Wednesday, January 23, the 10<sup>th</sup>  
23 legislative day.

24 Which motion prevailed.

25 **CONSIDERATION OF REPORTS OF COMMITTEES**

26 Sen. Olson moved that the reports of the Standing Committees on

27 Taxation on SB 55 as found on page 140 of the Senate Journal; also

- 1 Health and Human Services on SB 23 as found on page 141 of the Senate Journal; also  
2 Health and Human Services on SB 69 as found on page 141 of the Senate Journal; also  
3 Health and Human Services on SB 72 as found on page 141 of the Senate Journal be  
4 adopted.  
5 Which motion prevailed.

6 **SECOND READING OF CONSENT CALENDAR ITEMS**

- 7 Sen. Holien requested that SB 66 be removed from the Consent Calendar.

- 8 SB 62: FOR AN ACT ENTITLED, An Act to revise certain requirements regarding when  
9 an insurer's certificate of authority may be revoked.

- 10 Was read the second time.

- 11 The question being "Shall SB 62 pass as amended?"

- 12 And the roll being called:

- 13 Yeas 34, Nays 0, Excused 1, Absent 0

- 14 Yeas:

- 15 Adelstein; Begalka; Bradford; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
16 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup  
17 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt;  
18 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

- 19 Excused:

- 20 Brown

- 21 So the bill having received an affirmative vote of a majority of the members-elect, the  
22 President declared the bill passed and the title was agreed to.

- 23 SB 58: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
24 electronic filing of motor fuel tax reports and the electronic remittance of motor fuel tax.

- 25 Was read the second time.

- 26 The question being "Shall SB 58 pass?"

1 And the roll being called:

2 Yeas 34, Nays 0, Excused 1, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
5 (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Novstrup  
6 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
7 Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

8 Excused:

9 Brown

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

## 12 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

13 SB 36: FOR AN ACT ENTITLED, An Act to protect the identity of the person or entity  
14 supplying the intravenous injection substance for executions and to increase the penalty for a  
15 violation of those provisions.

16 Was read the second time.

17 The question being "Shall SB 36 pass?"

18 And the roll being called:

19 Yeas 35, Nays 0, Excused 0, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
23 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
24 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.

27 SB 52: FOR AN ACT ENTITLED, An Act to authorize one cent credit denominations for  
28 video lottery machines, to authorize the award of one thousand dollars on a video lottery  
29 machine, and to make form and style changes to certain provisions regarding the lottery.

30 Was read the second time.

1 The question being "Shall SB 52 pass?"

2 And the roll being called:

3 Yeas 30, Nays 5, Excused 0, Absent 0

4 Yeas:

5 Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);  
6 Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe; Olson (Russell);  
7 Omdahl; Peters; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Nays:

9 Adelstein; Novstrup (Al); Otten (Ernie); Rampelberg; Van Gerpen

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

12 SB 49: FOR AN ACT ENTITLED, An Act to establish the fee charged by registers of  
13 deeds for documents filed by the Department of Transportation disposing of highway right-of-  
14 way that is no longer needed for highway purposes.

15 Was read the second time.

16 The question being "Shall SB 49 pass?"

17 And the roll being called:

18 Yeas 35, Nays 0, Excused 0, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;  
21 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
22 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;  
23 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

24 So the bill having received an affirmative vote of a majority of the members-elect, the  
25 President declared the bill passed and the title was agreed to.

26 Sen. Holien moved that the Senate do now adjourn, which motion prevailed and at  
27 2:32 p.m. the Senate adjourned.

28

Jeannette Schipper, Secretary